FEDERAL REGISTER

VOLUME 5 NUMBER 207

Washington, Wednesday, October 23, 1940

The President

EXECUTIVE ORDER

TRANSFER OF CONTROL AND JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

OKLAHOMA

WHEREAS the hereinafter-described lands have been acquired by the United States under the authority of the Emergency Relief Appropriation Act of 1935, approved April 8, 1935 (49 Stat. 115), in connection with the land-utilization project of the Department of Agriculture known as the Cookson Hills Project, LU-OK-2; and

WHEREAS by Executive Order No. 7908,[1] dated June 9, 1938, all the right, title, and interest of the United States in such lands was transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and the related provisions of Title IV thereof; and

WHEREAS it appears that the transfer of the control and jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

NOW, THEREFORE, by virtue of the authority vested in me by section 32 of Title III of the said Bankhead-Jones Farm Tenant Act, and upon recommendation of the Secretary of Agriculture, it is hereby ordered that the control and jurisdiction over the hereinafter-described lands, together with the improvements thereon, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior; and the Secretary of the Interior is hereby authorized to administer such lands, through the Commissioner of Indian Affairs, for the benefit of such Indians as he may designate, under such conditions of use and administration as will best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired:

Muskogee County, Oklahoma

Beginning at a point 1993.18 feet South, and 45.5 feet West of the NE¼ of Section 15, Township 13 N., R. 20 E., thence West 580 feet to a point; thence South 333 feet to a point; thence East 580 feet to a point; thence North 333 feet to the place of beginning; containing 4.43 acres, more or less.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
October 19, 1940.

[No. 8571]

[F. R. Doc. 40-4448; Filed, October 22, 1940; 9:52 a. m.]

[1] 3 F.R. 1389.

Rules, Regulations, Orders

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 77, Civil Air Regulations]

REDESIGNATION OF CONTROL ZONES OF INTERSECTION AND CERTAIN AIRWAY TRAFFIC CONTROL AREAS

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 18th day of October, 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective 12:01 a. m., November 1, 1940, Part 60 of the Civil Air Regulations is amended as follows:

CONTENTS

THE PRESIDENT

RULES, REGULATIONS, ORDERS

NOTICES

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

1. By amending § 60.22 to read as follows:

§ 60.22 *Control zones of intersection designation.* The radio range station of the Administrator of Civil Aeronautics located at each of the following cities is designated as the center of a control zone of intersection: Albany, N. Y.; Albuquerque, N. Mex.; Amarillo, Tex.; Belgrade, Mont.; Boston, Mass.; Billings, Mont.; Bismarck, N. Dak.; Burlington, Vt.; Charleston, S. C.; Cheyenne, Wyo.; Concord, N. H.; Corpus Christi, Tex.; Daytona Beach, Fla.; Denver, Colo.; El Paso, Tex.; Fargo, N. Dak.; Helena, Mont.; Houston, Tex.; Huron, S. Dak.; Jackson, Miss.; Jacksonville, Fla.; Laramie, Wyo.; Memphis, Tenn.; Miami, Fla.; Millinocket, Maine; Minneapolis, Minn.; Nashville, Tenn.; Mobile, Ala.; New Orleans, La.; Oklahoma City, Okla.; Omaha, Nebr.; San Antonio, Tex.; Spokane, Wash.; Tallahassee, Fla.; Tampa, Fla.; Tulsa, Okla.; White Hall, Mont.; Wichita, Kans.

2. By amending § 60.2400 to read as follows:

§ 60.2400 *Green civil airway No. 1 airway traffic control areas (Seattle, Wash., to Boston, Mass.)* Those portions of green civil airway No. 1: From Boeing Field, Seattle, Wash., to a line extended at right angles across such airway through a point on the center line thereof 25 miles northeast of the Ellensburg, Wash., radio range station; from a line extended at right angles across such airway through a point on the center line thereof 25 miles southeast of the LaCrosse, Wis., radio range station to the intersection of the center line of the on course signal of the east leg of the Detroit, Mich. (Wayne County Airport), radio range and the U. S.-Canadian Border; from the intersection of the center line of the on course signal of the west leg of the Buffalo, N. Y., radio range and the U. S.-Canadian Border, to a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Syracuse, N. Y., radio range station.

3. By amending § 60.2410 to read as follows:

§ 60.2410 *Amber civil airway No. 1 airway traffic control areas (San Diego, Calif., to the U. S.-Canadian Border).* All of amber civil airway No. 1.

4. By amending § 60.24200 to read as follows:

§ 60.24200 *Red civil airway No. 1 airway traffic control areas (Portland, Oreg., to Salt Lake City, Utah).* All of red civil airway No. 1.

5. By amending § 60.24300 to read as follows:

§ 60.24300 *Blue civil airway No. 1 airway traffic control areas (Pendleton, Oreg., to Spokane, Wash.)* From the Pendleton, Oreg., radio range station to a line extended at right angles across such airway through a point on the center line thereof 25 miles northeast of the Pendleton, Oreg., radio range station.

6. By amending § 60.24311 to read as follows:

§ 60.24311 *Blue civil airway No. 12 airway traffic control areas (Northdalles, Wash., to Ellensburg, Wash.)* All of blue civil airway No. 12.

By the Civil Aeronautics Board:

[SEAL] THOMAS G. EARLY, *Secretary.*

[F. R. Doc. 40-4450; Filed, October 22, 1940; 9:53 a. m.]

[Amendment No. 78, Civil Air Regulations]

REQUIRING A MEANS TO STOP ENGINE ROTATION IN FLIGHT

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 18th day of October 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601, and 604 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board, amends the Civil Air Regulations as follows:

Effective November 1, 1940, Part 40 of the Civil Air Regulations, as amended, is amended as follows:

(1) By adding to § 40.232 a new subsection as follows:

§ 40.2320 *Engine rotation.* On and after July 1, 1941, applicant shall show that any aircraft to be used in air transportation which have engines with maximum power ratings of 450 horsepower or more are so equipped that engine rotation may be promptly stopped during flight; and, on and after July 1, 1942, the same showing shall be made with respect to all other aircraft to be used in air transportation.

(2) By adding to §§ 40.233, 40.250, and 40.332 the same new subsection except that such subsection shall be numbered either §§ 40.2330, 40.2500, or 40.3320, as the case may be.

By the Civil Aeronautics Board:

[SEAL] THOMAS G. EARLY, *Secretary.*

[F. R. Doc. 40-4451; Filed, October 22, 1940; 9:53 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 4046]

IN THE MATTER OF M & M BAG AND SUITCASE COMPANY

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.66 (a7) *Misbranding or mislabeling—Composition.* Representing, in connection with offer, etc., in commerce, of traveling bags, suitcases and other luggage, that such products, made of buffalo leather, are made of walrus leather, or that any traveling bag, etc., is made of any specified material, when such traveling bag, suitcase or other article of luggage is not in fact made of the material specified, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, M & M Bag and Suitcase Company, Docket 4046, October 9, 1940]

[Docket No. 4046]

IN THE MATTER OF MEYER BRODIE AND MORRIS WHITE, INDIVIDUALLY AND TRADING AS M & M BAG AND SUITCASE COMPANY

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of October, A. D. 1940.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and an agreed statement of facts entered in the record herein in lieu of testimony or other evidence, which agreed statement also waived the filing of briefs and all other intervening procedure; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Meyer Brodie and Morris White, individually and trading as M & M Bag and Suitcase Company, or trading under any other name, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of traveling bags, suitcases and other luggage in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing that traveling bags, suitcases or other articles of luggage made of buffalo leather, are made of walrus leather;

(2) Representing that any traveling bag, suitcase or other article of luggage is made of any specified material, when such traveling bag, suitcase or other article of luggage is not in fact made of the material specified.

It is further ordered, That the respondents shall within sixty (60) days after service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4444; Filed, October 21, 1940; 1:23 p. m.]

[Docket No. 4204]

IN THE MATTER OF SIEGEL-KAHN COMPANY, INC., ETC.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.66 (a7) *Misbranding or mislabeling—Composition.* Representing, in connection with offer, etc., in commerce, of undergarments, that respondent's products are composed of fibers or materials other than those of which such products are actually composed, or that any garment or fabric contains a stated percentage of wool, unless such garment or fabric does in fact contain wool in the proportion stated, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Siegel-Kahn Company, Inc., etc., Docket 4204, October 9, 1940]

[1] 5 F.R. 1441.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.71 (a) *Neglecting, unfairly or deceptively, to make material disclosure—Composition.* Advertising, etc., in connection with offer etc., in commerce, of undergarments, garments or fabrics composed in while or in part of rayon, without clearly disclosing the fact that such garments or fabrics are composed of rayon, prohibited; subject to the provision that when such garments or fabrics are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Siegel-Kahn Company, Inc., etc., Docket 4204, October 9, 1940]

§ 3.66 (a) (7) *Misbranding or mislabeling—Composition:* § 3.96 (a) (1) *Using misleading name—Goods—Composition.* Using, in connection with offer, etc., in commerce, of undergarments, the term "Woolywarms" or any other term containing the word "wool", to designate, describe, or refer to any garment or fabric which is not composed entirely of wool, prohibited; subject to the provision, however, that such terms may be used to designate or describe any garment or fabric composed of wool and other materials when the true percentage of wool contained therein is clearly and adequately disclosed. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Siegel-Kahn Company, Inc., etc., Docket 4204, October 9, 1940]

§ 3.18 *Claiming indorsements or testimonials falsely:* § 3.66 (c) *Misbranding or mislabeling—Indorsements or awards:* § 3.66 (k) (1) *Misbranding or mislabeling—Source or origin—Doctor's supervision:* § 3.96 (a) (9) *Using misleading name — Goods — Source or origin—Doctor's supervision.* Using, in connection with offer, etc., in commerce, of undergarments, the word "Doctor" or "Dr." to designate or describe any garment or fabric which has not in fact been designed, recommended or approved by physicians, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Siegel-Kahn Company, Inc., etc., Docket 4204, October 9, 1940]

§ 3.6 (a) (22) *Advertising falsely or misleadingly—Business status, advantages or connections of advertiser—Producer status of dealer or seller—Manufacturer:* § 3.96 (b) (5) *Using misleading name—Vendor—Producer or laboratory status of dealer or seller.* Using, in connection with offer, etc., in commerce, of under garments, the word "Mills" or "Mill" as a part of respondent's trade name or names, or otherwise representing that respondent owns or operates a mill or that respondent manufactures the products sold by it, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Siegel-Kahn Company, Inc., etc., Docket 4204, October 9, 1940]

IN THE MATTER OF SIEGEL-KAHN COMPANY, INC., A CORPORATION, DOING BUSINESS UNDER THAT NAME AND AS MANSHIRE MILLS AND AS SNUGINTUCKS MILLS

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 9th day of October, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Siegel-Kahn Company, Inc., a corporation, trading under that name and under the names Manshire Mills and Snugintucks Mills, or trading under any other name or names, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of undergarments in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that respondent's products are composed of fibers or materials other than those of which such products are actually composed;

2. Representing that any garment or fabric contains a stated percentage of wool unless such garment or fabric does in fact contain wool in the proportion stated;

3. Advertising, offering for sale, or selling garments or fabrics composed in whole or in part of rayon, without clearly disclosing the fact that such garments or fabrics are composed of rayon, and when such garments or fabrics are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent;

4. Using the term "Woolywarms" or any other term containing the word "wool" to designate, describe or refer to any garment or fabric which is not composed entirely of wool, provided, however, that such terms may be used to designate or describe any garment or fabric composed of wool and other materials

when the true percentage of wool contained therein is clearly and adequately disclosed;

5. Using the word "Doctor" or "Dr." to designate or describe any garment or fabric which has not in fact been designed, recommended or approved by physicians;

6. Using the word "Mills" or "Mill" as a part of respondent's trade name or names, or otherwise representing that respondent owns or operates a mill or that respondent manufactures the products sold by it.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-4445; Filed, October 21, 1940; 1:23 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Dockets Nos. A-63 to A-68]

PETITIONS OF CARRIER AND SON, P. AND G. COAL COMPANY, A. D. GRASSO, ELBA COAL COMPANY, CLARION COAL MINING COMPANY, AND WOLF-O-LACK COAL COMPANY FOR THE ESTABLISHMENT AND REVISION OF EFFECTIVE CLASSIFICATIONS AND MINIMUM PRICES FOR THE HARLAN, P. AND G., ELBA, DOCSMITH, AND LONE TREE MINES (MINE INDEX NOS. 197, 604, 599, 136, AND 603, DISTRICT NO. 1) AND THE HERCULES MINE; AND FOR THE ESTABLISHMENT OF SPECIAL CLASSIFICATIONS AND EFFECTIVE MINIMUM PRICES FOR SO-CALLED "CROP" COAL PRODUCED BY THE PETITIONERS

MEMORANDUM OPINION AND ORDER CONCERNING PRAYER FOR TEMPORARY RELIEF

The original petitioners in the above entitled matter pray for the issuance by the Director of preliminary or temporary and final orders revising the classifications and the effective minimum prices established for the coals of the Harlan, P. and G., Elba, Docsmith and Lone Tree Mines (Mine Index Nos. 197, 604, 599, 136, and 603, District No. 1); establishing "J" classifications and effective minimum prices for the coals of the Hercules Mine of District No. 1; and establishing special classifications and effective minimum prices for so-called "crop" coal produced by the petitioners.

The attorneys for petitioners and counsel for District Board No. 1 have entered into a stipulation whereby the former stipulate and agree not to raise the issue that the method or underlying basis for the classifications of coals within District No. 1 as established in General Docket No. 15 was improper and, further, that paragraphs 9, 10, 11, 12, 15 and 16 of the original petitions and anything else therein raising such issue shall be eliminated.

On October 11, 1940 an informal conference concerning the prayers for temporary relief was held by this Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) proceedings. The conference was held after telegraphic notice, sent on October 8, 1940, to the attorneys for the petitioners, the Bituminous Coal Producers Board for District No. 1, and the Statistical Bureau for that district. The attorneys for the petitioners were instructed in turn to notify by telegram all parties and all persons eligible to be parties and referred to by name in the petition, and the District Board was requested to notify all interested Code members. The Consumers' Counsel Division of the Office of the Solicitor, Department of the Interior, was also notified of the conference by memorandum of the Director.

The following persons were represented at the conference: the petitioners, Superior Cherry Run Coal Corporation, Hamler Coal Mining Company, Shawmut Mining Company, and J. and S. Coal Company, all of District No. 1, and District Boards Nos. 1, 2, and 3. Superior Cherry Run Coal Company, Hamler Coal Mining Company, Shawmut Mining Company, and District Boards Nos. 1 and 3 appeared expressly in opposition to the petition. J. and S. Coal Company took the position that if relief were granted to petitioners, the same relief should be accorded it. District Board No. 2 opposed granting relief to petitioners in so far as such relief might affect their competitive situation as against producers of District No. 2.

District Board No. 1 has also filed a motion to dismiss the original petitions in this matter on the ground that the record of the informal conference held on October 11, 1940 demonstrates that no injury has been suffered by the petitioners.

District Board No. 6 and J. and S. Coal Company have filed petitions for intervention. These pleadings have not, however, been properly served. The defects in service should immediately be cured.

Superior Cherry Run Coal Corporation and Hamler Coal Mining Company have jointly filed a statement in the form of an affidavit of George A. Dickey, Secretary of both Companies.

It appears that petitioners request "J" classifications and corresponding reductions in the effective minimum prices for all coals produced at their mines on the ground that those coals originate in strip mines, that they are physically and analytically inferior to other coals of District No. 1 bearing similar classifications, and that their market history reflects such inferiority. Petitioners further desire special prices for so-called "crop" coals produced at their mines, 30 cents less than those for coals bearing the "J" classification.

It further appears that the issues involved in this matter are substantial; that District Boards Nos. 1, 2, and 3 are opposed to the granting of temporary relief; that other producers of District No. 1 are either likewise opposed or insistent that, if granted, such relief be extended to them; that no clear distinction has been drawn between the so-called "crop" coals and the "normal" coals of "good quality"; and that no injury has been suffered by the petitioners or is now imminent.

In so far as the motion of District Board No. 1 to dismiss is concerned, it is not, however, proper to preclude the petitioners from presenting hereafter at a final hearing, evidence supporting their requests and demonstrating that an injury has actually been suffered. If, at that time, the petitioners do not adduce such evidence, the District Board may renew its motion.

In view of the foregoing circumstances and the fact that the Director, by Order dated October 15, 1940, has scheduled a final hearing on this matter to commence on October 28, 1940, in which all interested parties will be afforded an opportunity to participate, the Director is of the opinion that the motion of District Board No. 1 to dismiss shall be denied and that the temporary relief prayed for should not be granted at this time.

Accordingly, it is so ordered.

Dated: October 19, 1940.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-4446; Filed, October 21, 1940; 1:24 p. m.]

[Docket No. A-116]

PETITION OF LITTLE VALLEY COAL COMPANY FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF ARROW ROCKINGHAM MINE, MINE INDEX NO. 641

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party:

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on November 13, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in

such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 25, 1940.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of the Arrow Rockingham mine of the said Company, Mine Index No. 641, located in District 1, for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

It is further ordered, That, a reasonable showing of necessity having been made for the granting of temporary relief, pending final disposition of the petition in the above entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith the coals of the Arrow Rockingham mine, Mine Index No. 641, shall be, and they hereby are, priced for movement to all Market Areas in Size Groups 3, 4, and 5 For All Shipments Except Truck, in price classification "E"; and for Truck Shipments in Size Groups 3, 4, and 5 at 225, 215, and 205 cents per net ton, respectively.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: October 19, 1940.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 40-4452; Filed, October 22, 1940; 9:53 a. m.]

[Docket No. A-90]

PETITION OF NEW RIVER COMPANY FOR REVISION OF THE SIZE GROUPS ESTABLISHED IN THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 7 FOR ALL SHIPMENTS EXCEPT TRUCK AND FOR REVISION OF THE EFFECTIVE MINIMUM PRICES FOR ITS MINES, MINE INDEX NOS. 45, 77, 105, 113, 132, 135, 154, 167, 170, 179, 180, AND 202, DISTRICT NO. 7, IN SIZE GROUPS 3, 4, 6, 7, 8, AND 9, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

MEMORANDUM OPINION AND ORDER CONCERNING PRAYER FOR TEMPORARY RELIEF

The original petitioner in the above-entitled matter prays for the issuance by the Director of preliminary or temporary and final orders revising the size groups established for low volatile coals in the Schedule of Effective Minimum Prices for District No. 7 for All Shipments Except Truck and revising the effective minimum prices established for its coals in Size Groups 3, 4, 6, 7, 8, and 9 for shipment for railway fuel and general commercial use.

On October 10, 1940, an informal conference concerning the prayer for temporary relief was held by this Division pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure in 4 II (d) proceedings. The conference was held after telegraphic notice, sent on October 7, 1940, to the attorney for the petitioner, the Bituminous Coal Producers Board for District No. 7, and the Statistical Bureau for that district. The attorney for the petitioner was instructed in turn to notify by telegram all parties and persons eligible to be parties and referred to by name in the petition, and the District Board was requested to notify all interested Code members. The Consumers' Counsel Division, Office of the Solicitor, Department of the Interior, was also notified of the conference by memorandum of the Director.

The following persons were represented at the conference: the petitioner, Carter Coal Company, Pocahontas Fuel Company, and White Oak Coal Company (all of District No. 7), C. H. Sprague & Son Company, the Chesapeake & Ohio Railway Company, District Boards Nos. 1, 7, and 8, and the Consumers' Counsel Division.

(1) The petitioner first requests revision of the size groups established for the low volatile coals of District No. 7 by the addition of a new size group to be numbered 6-A, to be designated "Modified Run of Mine," and to be defined as run of mine containing at least the following percentages of screenings which will pass through a ¾" round hole screen:

Classification applicable to Size Group 6-A	A	B	C	D	E
Minimum Percentage of ¾" x 0	% 40	% 35	% 40	% 40	% 40

The petitioner also requests the establishment of effective minimum prices for coals in this new size group, 20¢ lower than those applicable to coals in Size Group 6, as presently constituted.

Carter Coal Company, Pocahontas Fuel Company, and District Boards Nos. 1, 7, and 8 are opposed to the granting of temporary relief on this request.

It appears that the petitioner has been customarily preparing and shipping, as domestic run of mine coals, modified mine run containing approximately 40% but less than 60% of ¾" x 0 screenings; that the effective minimum prices established have interfered with and threaten continued interference with the normal distribution of such modified mine run coals; and that the petitioner has been injured thereby and further injury is imminent. It does not appear, however, that such modified mine run coals of the petitioner have generally sold at prices lower than those at which coals embraced in Size Group 6 have sold in common consuming market areas. Therefore, although it appears that the petitioner and other producers of low volatile coals in Districts Nos. 7 and 8 should be permitted to dispose of such modified mine run as screened run of mine coals, there would seem to be no justification for establishing a price differential between them.

(2) The petitioner further requests that it be permitted to ship 1¼"x 0 (Size Group 8) coals produced at each of its several mines to C. H. Sprague & Son Company of Boston, Massachusetts, at the prices established for the ¾"x 0 (Size Group 9) coals of the respective mines.

Carter Coal Company, Pocahontas Fuel Company, and District Boards Nos. 1, 7, and 8 are opposed to the granting of temporary relief on this request.

It appears that for many years the petitioner has supplied to Edison Electric Illuminating Company of Boston, Massachusetts (hereafter referred to as Edison), through C. H. Sprague & Son Company of that city, as distributor, practically all the coal consumed by the utility's plants; that the price differential established between the 1¼"x 0 (Size Group 8) and ¾"x 0 (Size Group 9) threatens the petitioner with imminent loss of a great portion of this business enjoyed over that long period of time; and that the inability to ship 1¼" x 0 coals and ¾"x 0 coals to the Edison plants, at equal prices as in the past, has resulted in and will result fur-

ther in the abnormal accumulation of the larger slack coals at the petitioner's tipples and affiliated storage yards.

It further appears that to permit the petitioner to sell and to ship 1¼" x 0 and ¾" x 0 coals for the account of this one consumer of long standing, pending final disposition of its original petition in this matter will not adversely affect the competitive opportunities of any other producer, but will, on the other hand, prevent injuries to opportunities which the petitioner has long enjoyed, until such time as the Director, after more evidence has been adduced, and after due consideration, may finally determine the merits of the petition.

It does appear, however, that the petitioner sells ¾" x 0 coals to consumers other than Edison, but that it finds it more difficult to dispose of its 1¼" x 0 coals. It would be unfair to allow the petitioner to expand its fair ¾" x 0 markets by disposing of its surplus 1¼" x 0 coals to Edison at the prices for the smaller slacks. In order to insure only maintenance and to preclude extension of existing opportunities, the proportion of 1¼" x 0 coals which the petitioner should be permitted to sell and to ship for the use of Edison at the effective minimum prices for the smaller slacks to the ¾" x 0 coals sold and shipped for that company's use should be no greater than the proportion which the 1¼" x 0 coals shipped for the use of Edison bore to the ¾" x 0 coals so shipped during the period October 1, 1939, to September 30, 1940.

(3) The petitioner further requests that the size groups and the effective minimum prices established for the low volatile coals of District No. 7 for shipment for railway fuel use for on-line railways be revised by substitution for the size group now defined as "Stove—3" x ¾" or smaller," of a size group described as "All lump or double-screened coal," and by the reduction of the price now established for that size group to $2.50.

None of the parties appearing at the informal conference opposed the granting of temporary relief on this request.

It appears that a size group described as "All lump or double-screened coal" has been established in the Schedules of Effective Minimum Prices for Districts Nos. 7 and 8 for the high volatile coals of those districts and that prices have been established for that size group, 15¢ higher than those established for the run of mine size group; that the petitioner does prepare and has on hand a great quantity of lump or double-screened coals other than stove coals, 3" x ¾" or smaller; that the size groups established for low volatile coals of District No. 7 for railway fuel use have hampered the distribution of such lump or double-screened coals for such use; and that there is imminent danger that the petitioner's mines will cease to operate because of the abnormal accumulation of such coals. It further appears that the establishment of a price differential between low volatile lump or double-screened coals and run of mine coals for railway fuel use larger than that effective for high volatile coals threatens the competitive opportunities of the low volatile coals.

In view of the foregoing circumstances, the Director is of the opinion that the temporary relief prayed for in the original petition should be granted in the following respects:

(1) Key Size No. 40 in the tables of descriptions of sizes by key size numbers contained in the Schedules of Effective Minimum Prices for Districts Nos. 7 and 8 for All Shipments Except Truck (on pages 7 thereof) should be modified by the addition of the following paragraph:

"Also straight run of mine which as shipped shall contain at least the following percentages of screenings which shall pass through a ¾" round hole screen, applicable to the following low volatile price classifications:

Classification applicable to Size Group 6	A	B	C	D	E
Minimum Percentage of ¾" x 0	% 40	% 25	% 40	% 40	% 40

(2) The New River Company should be permitted to sell to C. H. Sprague & Son Company of Boston, Massachusetts, for resale to and for the use only of Edison Electric Illuminating Company of Boston 1¼" x 0 (Size Group 8) coals produced at each of its several mines at the effective minimum prices for the ¾" x 0 (Size Group 9) coals of the respective mine: *Provided, however,* That the proportion of the total monthly tonnages of such shipments of 1¼" x 0 coals to the monthly tonnages of ¾" x 0 coals shipped to C. H. Sprague & Son Company for such resale and use shall not exceed the proportion of the tonnages of 1¼" x 0 coals to those of ¾" x 0 coals so shipped for such resale and use during the period October 1, 1939 to September 30, 1940: *And, provided, further,* That The New River Company shall forthwith file with this Division a statement, duly sworn to and verified by a properly authorized officer of that company, setting forth the tonnages of 1¼" x 0 coals and ¾" x 0 coals shipped to C. H. Sprague & Son Company for resale to and for the use of Edison and directly to Edison, during the period beginning October 1, 1939 and ending September 30, 1940: *And, provided, further,* That The New River Company shall file with this Division beginning on November 15, 1940, and on or before the 15th day of each succeeding month, a statement, duly sworn to and verified by a properly authorized officer, setting forth the tonnages of all coals shipped to C. H. Sprague & Son Company for resale to and use by Edison and directly to Edison, during the calendar month preceding the date of filing.

(3) The size groups and effective minimum prices established for the low volatile coals of Districts Nos. 7 and 8 for railway fuel use for on-line railways should be modified as follows:

Substitute for "Stove—3" x ¾" or smaller, $2.60," the following: "All lump or double-screened coals, $2.50."

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Accordingly, it is so ordered.

Dated: October 21, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-4454; Filed, October 22, 1940; 11:25 a. m.]

DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

[Docket No. 454]

JOINT APPLICATION OF PAN AMERICAN AIRWAYS, INC., PAN AMERICAN AIRWAYS COMPANY (NEVADA), PAN AMERICAN AIRWAYS COMPANY (DELAWARE), PACIFIC ALASKA AIRWAYS, INC., PANAMA AIRWAYS, INC., UNDER SECTION 408 OF THE CIVIL AERONAUTICS ACT OF 1938 FOR APPROVAL OF THE ACQUISITION BY PAN AMERICAN AIRWAYS, INC., OF THE CONTROL OF CERTAIN AIR CARRIERS AND CERTAIN PERSONS ENGAGED IN OTHER PHASES OF AERONAUTICS THAN AS AIR CARRIERS AND FOR THE TRANSFER TO IT UNDER SECTION 401 (i) OF THE CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY OF CERTAIN AIR CARRIERS MERGED

NOTICE OF HEARING [1]

The above-entitled proceeding is hereby assigned for public hearing on October 25, 1940, at ten o'clock, a. m. (Eastern Standard Time), at the Mayflower Hotel, Connecticut Avenue and DeSales Street NW., Washington, D. C., before Examiner Frank A. Law, Jr.

Dated Washington, D. C., October 21, 1940.

[SEAL] FRANK A. LAW, Jr.,
Examiner.

[F. R. Doc. 40-4449; Filed, October 22, 1940; 9:52 a. m.]

[1] Issued by Civil Aeronautics Board.

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5911]

IN RE APPLICATION OF WMBD BROADCASTING CO. (WMBD), ASSIGNOR

Dated May 29, 1940, for voluntary assignment of license of WMBD and portable mobile stations WAIN, WEKH, WPEO, and WEKI to Peoria Broadcasting Co. (a Delaware corporation), assignee; class of service, broadcast and relay broadcast; class of station, broadcast and portable mobile; location, Peoria, Ill.; present operating assignment—WMBD: Frequency, 1440 kc.; power, 1 kw. night, 5 kw. day; hours of operation, unlimited. WAIN: Frequency, 1622, 2058, 2150, 2790 kcs., emission A–3; power, 25 w. night, 25 w. day; hours of operation, section 4.24. WEKH: Frequency, 1622, 2058, 2150, 2790 kcs., emission A–3; power, 50 w. night, 50 w. day; hours of operation, section 4.24. WPEO: Frequency, 33380, 35020, 37620, 39820 kcs., emission A–3; power, 1 w. night, 1 w. day; hours of operation, section 4.24. WEKI: Frequency, 33380, 35020, 37620, 39820 kcs., emission A–3; power, 10 w. night, 10 w. day; hours of operation, section 4.24.

[File No. B4–AL–282]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the amount of net savings which the licensee of Station WMBD may be expected to realize as a result of the proposed assignment and the plans or contemplated actions of the licensee with respect to the use and disposition of such savings.

2. To determine whether one of the principal effects of the proposed assignment would be to avoid taxes imposed by the State of Illinois and, if so, whether such assignment would be in the public interest in accordance with Section 310 of the Communications Act.

3. To determine whether one of the principal effects of the proposed assignment would be to transfer control of Station WMBD, operating in Illinois, from an Illinois corporation to a Delaware corporation, and, if so, whether such assignment would be in the public interest in accordance with Section 310 of the Communications Act.

4. To obtain full information as to the purposes and expected effects of the proposed assignment, and to determine whether such assignment would be in the public interest in accordance with Section 310 of the Communications Act.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicants' addresses are:

WMBD Broadcasting Company,
Radio Station WMBD,
200 Alliance Life Building,
408 Main Street,
Peoria, Illinois.

Peoria Broadcasting Company,
410 Main Street,
Peoria, Illinois.

October 19, 1940.
By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40–4447; Filed, October 22, 1940; 9:41 a. m.]

INTERSTATE COMMERCE COMMISSION.

[Ex Parte No. MC–15]

ORDER IN THE MATTER OF REGULATIONS GOVERNING THE SIZES AND WEIGHT OF MOTOR VEHICLES AND COMBINATIONS OF MOTOR VEHICLES USED BY COMMON AND CONTRACT CARRIERS IN THE TRANSPORTATION OF PASSENGERS AND BY COMMON, CONTRACT, AND PRIVATE CARRIERS IN THE TRANSPORTATION OF PROPERTY IN INTERSTATE OR FOREIGN COMMERCE

POSTPONEMENT OF TIME FOR FILING STATEMENT

Present: Joseph B. Eastman, Chairman, Interstate Commerce Commission, to whom the above-entitled matter has been assigned for action thereon.

It appearing, that by orders dated November 8, 1937, and August 28, 1940,[1] an investigation was instituted by the Commission in the above-entitled proceeding in order to enable the Commission to make a report under section 226 of the Interstate Commerce Act on the need for Federal regulation of the sizes and weights of motor vehicles and combinations thereof:

It further appearing, that said order of August 28, 1940, authorized the filing of a statement by any party of his position on the subject of this proceeding, such statement to be filed in triplicate on or before November 10, 1940;

And it further appearing, that an extension of the period for filing such statement has been requested by certain parties, and good cause therefor appearing;

It is ordered, That the time for filing said statements be, and it is hereby, postponed so as to permit their filing on or before November 25, 1940.

Dated at Washington, D. C., this 17th day of October, A. D. 1940.

By the Commission, Chairman Eastman.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 40–4453; Filed, October 22, 1940; 11:10 a. m.]

[1] 5 F.R. 3598.

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1–667]

IN THE MATTER OF NEW YORK RAPID TRANSIT CORPORATION, KINGS COUNTY ELEVATED RAILROAD COMPANY FIRST MORTGAGE 4% GOLD BONDS, DUE AUGUST 1, 1949

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 21st day of October, A. D. 1940.

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the Kings County Elevated Railroad Company First Mortgage 4% Gold Bonds, due August 1, 1949, of New York Rapid Transit Corporation; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on October 31, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–4456; Filed, October 22, 1940; 11:48 a. m.]

[File No. 2–4086]

IN THE MATTER OF POULIN MINING COMPANY LIMITED

STOP ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1940.

This matter coming on to be heard by the Commission on the registration statement of Poulin Mining Company Limited, a corporation organized under the laws of the Province of Quebec, Canada, after confirmed telegraphic notice by the Commission to said registrant that it appeared that said registration statement included untrue statements of material facts and omitted to state material facts required to be stated therein and omitted to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant; and

The Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts an omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, all as more fully set forth in the Commission's Findings of Fact and Opinion this day issued; and

The Commission now being fully advised in the premises;

It is ordered, Pursuant to section 8 (d) of the Securities Act of 1933, as amended, that the effectiveness of the registration statement filed by Poulin Mining Company Limited, a corporation organized under the laws of the Province of Quebec, Canada, be and the same hereby is suspended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4460; Filed, October 22, 1940; 11:49 a. m.]

[File No. 37-6]

IN THE MATTERS OF MIDDLE WEST SERVICE COMPANY, THE MIDDLE WEST CORPORATION

ORDER FOR HEARING AND TO SHOW CAUSE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1940.

The Commission having heretofore issued its Findings, Opinion and Order dated July 31, 1936 pursuant to Section 13 (b) of the Public Utility Holding Company Act of 1935 and rules and regulations of the Commission thereunder, with respect to the organization and conduct of business of Middle West Service Company, a subsidiary company of The Middle West Corporation, a registered holding company, subject to certain conditions, and in particular, that the declarant may be required to effect any changes in its methods of determining or allocating costs or to effect any other changes if such changes become necessary in order to conform with all existing or further rules, regulations and orders designed to insure the carrying out of the objectives of Section 13 of the Act; and

It appearing to the Commission that the salaries and compensation of certain officers, directors or employees of The Middle West Corporation and certain other registered holding companies who are also officers, directors, or employees of declarant are paid wholly or partially by declarant which allocates the cost of such services to associate companies, and it appearing to the Commission that the organization and conduct of business of declarant in the aforesaid respects may not meet the requirements of Section 13 of the Act and it therefore appearing to the Commission that a hearing should be held with reference to the foregoing matters:

It is ordered, That a hearing for the purposes hereinafter provided be held on October 29, 1940 at 10:00 A. M. in the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to where such hearing will be held.

It is further ordered, That at said hearing said declarant shall show cause why such changes should not be made in its organization and conduct of business as may be necessary for the purpose of discontinuing the payment of salaries and compensation to any officers, directors or employees who are also officers, directors or employees of or who render or perform services for The Middle West Corporation, or for any other registered holding company, so as to insure that service, sales and construction contracts are performed economically and efficiently for the benefit of associate companies at cost, fairly and equitably allocated among such companies in accordance with Section 13 of the Public Utility Holding Company Act of 1935 and the rules and regulations of the Commission thereunder; and at said hearing, The Middle West Corporation shall also show cause why it should not take appropriate action to cause those of its officers, directors or employees who are paid wholly, or in part, directly or indirectly, by its subsidiaries, to sever their relationships with said The Middle West Corporation, or in the alternative, that said The Middle West Corporation pay in full the entire compensation of all such officers, directors or employees; and that such other matters be considered at said hearing in connection therewith as may be appropriate in order to insure compliance with the provisions of Section 13 of the Act and the rules and regulations of the Commission thereunder.

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice;

It is further ordered, That notice of said hearing be and hereby is given to Middle West Service Company and to The Middle West Corporation, such notice to be given by service of a copy of this order by registered mail, and that notice is hereby given to any other person whose participation in these proceedings may be in the public interest or for the protection of investors or consumers, such notice to be given by publication in the FEDERAL REGISTER. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before October 26, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4459; Filed, October 22, 1940; 11:49 a. m.]

[File No. 37-43]

IN THE MATTER OF NEW ENGLAND GAS AND ELECTRIC ASSOCIATION AND ITS SUBSIDIARIES CONGRESS MACHINE ACCOUNTING CORPORATION

ORDER FOR HEARING TO SHOW CAUSE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1940.

It appearing to the Commission, on the basis of the facts contained in the record in the matter of Congress Machine Accounting Corporation (File No. 37-43), and on the basis of other information contained in its official files, that there are certain persons who are officers, directors or employees of, or who render or perform services for, New England Gas and Electric Association, a registered holding company, and its subsidiary companies, the salaries or compensation of whom are paid, all or in part, by the said subsidiary companies, and it appearing to the Commission that the organization and method of doing business of said New England Gas and Electric Association, with respect to the aforesaid payments of compensation to such persons, may not meet the requirements of the Public Utility Holding Company Act of 1935, with particular reference to the requirement thereof that service, sales, and construction contracts be performed economically and efficiently for the benefit of associate companies at cost, fairly and equitably allocated among such companies, and it therefore appearing to the Commission that a hearing should be held with reference to the foregoing matters for the purpose more particularly hereinafter specified;

It is ordered, That a hearing on such matters to be held on October 30, 1940, at 10:00 o'clock A. M. in the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On that day the hearing room clerk in room 1102 will advise where such hearing is to be held;

It is further ordered, That at said hearing New England Gas and Electric Association shall show cause why such changes should not be made in the organization and method of doing business of the holding company system of New England Gas and Electric Association as appear necessary for the purpose of discontinuing the payment by its subsidiary companies of compensation to any officers, directors, or employees who are officers, directors or employees of or who render or perform services for New England Gas and Electric Association, so as to insure that service, sales and construction contracts are performed economically and efficiently for the benefit of associate companies at cost, fairly and equitably allocated among such companies, and at said hearing New England Gas and Electric Association shall also show cause why it should not take appropriate action to cause those of its officers, directors and employees, who are paid, all or in part, directly or indirectly, by subsidiary operating companies, to sever their relationship with said New England Gas and Electric Association, or in the alternative that the said New England Gas and Electric Association pay in full the entire compensation of all such officers, directors and employees.

It is further ordered, That Charles S. Moore or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That the proceedings of the Order to Show Cause provided for herein be consolidated with the hearings on the declaration of Congress Machine Accounting Corporation filed with this Commission pursuant to Section 13 of the said Act.

It is further ordered, That notice of said hearing be and hereby is given to New England Gas and Electric Association, such notice to be given by service of a copy of this order by mail, and to any other person whose participation in such proceedings may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party in said proceedings shall file a notice to that effect with this Commission on or before October 28, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4458; Filed, October 22, 1940; 11:49 a. m.]

[File No. 54-19]

IN THE MATTER OF INTERNATIONAL HYDRO-ELECTRIC SYSTEM, RESPONDENT, AND JOSEPH B. ELY, C. BROOKS STEVENS AND HENRY G. WELLS, AS TRUSTEES UNDER A TRUST AGREEMENT DATED JANUARY 31, 1939, RESPONDENTS

SUPPLEMENTAL NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1940.

The Commission having on June 17, 1940, issued its Notice of and Order for Hearing[1] for the purpose of enforcing the provisions of Section 11 (b) (2) of the Public Utility Holding Company Act of 1935 with respect to International Hydro-Electric System and for the purpose of determining (1) whether the allegations of paragraphs numbered 1 through 18, inclusive, of said Order of June 17, 1940, are true and accurate, (2) whether it is necessary to discontinue the existence of International Hydro-Electric System, (3) what steps are necessary for the discontinuance of the existence of International Hydro-Electric System and (4) what further action, if any, is necessary and shall be required to be taken by International Hydro-Electric System to insure that the corporate structure or continued existence of International Hydro-Electric System does not unduly or unnecessarily complicate the corporate structure, or unfairly or inequitably distribute the voting power among security holders of the International Hydro-Electric System holding-company system; and the Commission having issued its orders permitting intervention in the proceeding instituted by said order of June 17, 1940, to International Paper and Power Company, International Paper Company and Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, upon application by such parties to intervene; and

It tentatively appearing to the Commission that:

1. Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, is a registered holding company organized as a Trust under the laws of the Commonwealth of Massachusetts and maintains principal executive offices in the City of Boston, Commonwealth of Massachusetts.

2. Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, hold pursuant to, and for the purposes described in said Agreement of Trust, the following securities:

(a) 1,000,000 shares of Class B Stock of International Hydro-Electric System, a registered holding company, constituting all of the outstanding shares of said Class B Stock.

(b) 2,500,000 shares of Common Stock of International Hydro-Electric System, a registered holding company, constituting all of the outstanding shares of said Common Stock.

(c) 3,000 shares of Common Stock of The Olcott Falls Company, an electric utility company, constituting all of the outstanding shares of said Common Stock.

(d) 500 shares of Common Stock of Oconto River Power Company, an inactive company, constituting all the outstanding shares of said Common Stock.

3. Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, through their holding 2,500,000 shares of Common Stock of International Hydro-Electric System as aforesaid, have approximately 71% of the voting power for the election of directors in said International Hydro-Electric System.

4. International Paper and Power Company and International Paper Company are Beneficiaries under the aforementioned Trust Agreement dated January 31, 1939 and said International Paper and Power Company and said International Paper Company constitute a "majority in interest of the Beneficiaries" under said Trust Agreement as such term is defined in said Trust Agreement.

5. The aforementioned Trust Agreement dated January 31, 1939 contains provisions to the effect that a majority in interest of the Beneficiaries under said Trust Agreement may prevent or direct any sale or other disposition of the securities held by Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, except a disposition in the form of a mortgage or pledge in connection with the borrowing of moneys not to exceed $50,000 for the purposes of meeting the expenses of said trust.

6. Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, is a holding company with respect to International Hydro-Electric System, which latter company has subsidiary companies which are holding companies.

7. The continued existence of Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, as a holding company with respect to International Hydro-Electric System and its subsidiary companies unduly and unnecessarily complicates the structure of the holding-company system of which said Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, is the parent company.

Wherefore it is ordered, That, pursuant to Section 11 (b) (2) of the Public Utility Holding Company Act of 1935, the scope of the hearing called for in the

[1] F.R. 2311.

Commission's order of June 17, 1940, be and hereby is enlarged to determine, in addition to the matters set forth in said order of June 17, 1940, (1) whether the allegations of the paragraphs numbered 1 through 7 hereof, inclusive, are true and accurate, (2) whether it is necessary to require said Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, to cease to be a holding company with respect to International Hydro-Electric System and its subsidiary companies, (3) what steps are necessary to be required for said Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, to cease to be a holding company with respect to International Hydro-Electric System and its subsidiary companies, and (4) what further action, if any, is necessary and shall be required to be taken by Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, to insure that the continued existence of said Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, as a holding company with respect to International Hydro-Electric System and its subsidiary companies does not unduly and unnecessarily complicate the structure of the holding company-system of which Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939 is the parent company; and, said hearing which has been adjourned on the record to 10:00 A. M. on the 29th day of October, 1940 at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., shall have the scope and be held for the purposes as aforesaid; and

It is further ordered, That the aforesaid enlargement of the scope of this proceeding shall be without prejudice to the Commission's ordering a separate hearing concerning the issues involved in the Commission's order of June 17, 1940, or concerning the additional issues involved herein, to closing the record with respect to the issues involved in said order of June 17, 1940, or involved herein, or to taking action with respect to the issues involved, either in said order of June 17, 1940 or involved herein prior to closing the record with respect to said other issues, if, at any time such action may appear conducive to an orderly and economic disposition of the issues involved; and

It is further ordered That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order by registered mail to Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, to International Hydro-Electric System, to International Paper and Power Company and to International Paper Company, not less than six days prior to the date hereinbefore fixed as the date of hearing; and that notice of said hearing is hereby given to Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, to the beneficiaries under said Trust Agreement dated January 31, 1939, and to all other persons, including the subsidiary companies of Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, the security-holders and consumers of said companies, all States, municipalities and political subdivisions of States within which are located any of the utility assets of the holding-company system which Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, is the parent company or under the laws of which any of said companies are incorporated or organized, all State commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities or other political subdivisions having jurisdiction over Joseph B. Ely, C. Brooks Stevens and Henry G. Wells, as Trustees under a Trust Agreement dated January 31, 1939, or any of said companies or over any of the businesses, affairs or operations of any of them; that such notice shall be given further by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935; and that further notice be given to all persons by publication of this order in the FEDERAL REGISTER not later than six days prior to the date hereinbefore fixed as the date of hearing; and

It is further ordered That any person proposing to intervene in these proceedings and not having already done so pursuant to the order of the Commission dated June 17, 1940 shall file with the Secretary of the Commission on or before the 28th day of October, 1940, his request or application therefor as provided by Rule XVII of the Rules of Practice.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4457; Filed, October 22, 1940; 11:48 a. m.]

[File No. 70-135]

IN THE MATTER OF COLUMBUS AND SOUTHERN OHIO ELECTRIC COMPANY

ORDER GRANTING APPLICATION FOR EXEMPTION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 21st day of October, A. D. 1940.

Columbus and Southern Ohio Electric Company having filed an application pursuant to the Public Utility Holding Company Act of 1935, particularly Section 6 (b) thereof, for the exemption of the issue and sale of $29,000,000 of First Mortgage Bonds, 3¼% Series due 1970; and

Said application having been filed on August 7, 1940, and various amendments having been filed thereunder, the last of said amendments having been filed on October 21, 1940; notice of the filing of said application having been duly given in the form and manner prescribed by Rule U-8 pursuant to said Act; and the Commission not having received a request for a hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Columbus and Southern Ohio Electric Company having requested that said application, as amended, be granted on October 21, 1940; and

The Commission finding that the issue and sale of the aforesaid securities are solely for the purpose of financing the business of Columbus and Southern Ohio Electric Company, a subsidiary company of The United Light and Power Company, a registered holding company, and the Commission finding that such issue and sale have been expressly authorized by the Public Utilities Commission of Ohio, the State in which said company is organized and doing business, and the Commission therefore deeming it appropriate to grant said application subject to the reservation of jurisdiction hereinafter referred to, and subject to the terms and conditions prescribed in Rule U-9, which terms and conditions the Commission deems appropriate in the public interest and for the protection of investors and consumers; and

The Commission having previously issued, on or about August 22, 1940, an order to show cause herein directed to Dillon Read & Co., pursuant to Rule U-12F-2 of the General Rules and Regulations promulgated pursuant to said Act, and a stipulation having been entered into on August 23, 1940, between Columbus and Southern Ohio Electric Company, Dillon Read & Co., and counsel for the Securities and Exchange Commission, under the terms of which stipulation it was provided that, in order that the pendency of questions arising in said proceedings under Rule U-12F-2 should not delay the financing which is the subject of the application herein, the Commission might grant said application under Section 6 (b) but reserve jurisdiction to take any appropriate action pursuant to Rule U-12F-2 with respect to any fee to be paid to Dillon Read & Co., and which stipulation also provided that hearings with respect to said matters as to which jurisdiction was reserved might be continued until such future date as might be ordered by the Commission or mutually agreed upon by counsel for the Commission and Dillon Read & Co., subject to the terms and conditions contained in said stipulation, which stipulation was filed in these proceedings on

October 12, 1940, and to which reference is hereby made; and

The Commission deeming it appropriate to grant said application at this time, subject to the reservation of jurisdiction with respect to said proceedings under said order to show cause pursuant to Rule U-12F–2 hereinbefore referred to and hereinafter provided;

It is hereby ordered, Pursuant to Rule U-8 and the applicable provisions of said Act, and subject to the terms and conditions prescribed in Rule U-9, that the aforesaid application, as amended, be and hereby is granted forthwith, subject to the reservation of jurisdiction by the Commission to take any appropriate action pursuant to Rule U-12F–2 with respect to any fees to be paid to Dillon Read & Co., as more fully provided in the aforesaid stipulation dated August 23, 1940, and filed October 12, 1940, to which stipulation reference is hereby made.

By the Commission, Commissioner Healy dissenting for the reasons stated in his memorandum of April 1, 1940, and Commissioner Eicher absent and not participating.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–4461; Filed, October 22, 1940; 11:49 a. m.]

[File No. 70–180]

IN THE MATTER OF CITIES SERVICE POWER & LIGHT COMPANY, DANBURY AND BETHEL GAS AND ELECTRIC LIGHT COMPANY

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22nd day of October, A. D. 1940.

Notice is hereby given that declarations and applications have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and

Notice is further given that any interested person may, not later than November 6, 1940, at 4: 30 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declarations and applications, as filed or as amended, may become effective and may be granted as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declarations and applications which are on file in the office of said Commission, for a statement of the transactions therein proposed which are summarized below:

The Danbury and Bethel Gas and Electric Light Company proposes to issue and sell $720,000 principal amount of general mortgage bonds due 1970 (the interest rate thereon to be not in excess of 3¼% per annum) and 9,600 shares of 4½% cumulative preferred stock of the par value of $50 per share at a price not less than the principal amount of such bonds and the par value of such stock.

The Company also proposes to change its 24,000 shares of presently outstanding Common Stock of $25 par value each into 120,000 shares of Common Stock of $5 par value each. Cities Service Power & Light Company is the beneficial owner of all of the presently outstanding Common Stock of the Company and will accordingly become the owner of the 120,000 shares of Common Stock of $5 par value each.

The Company also proposes to issue an additional 24,000 shares of Common Stock of $5 par value each to Cities Service Power & Light Company in full satisfaction and discharge of the Company's indebtedness of $408,040 to said company represented by by $379,000 principal amount of demand notes, $25,000 open account and $4,040 accrued interest. Said notes and open account will thereupon be cancelled.

Upon consummation of the sale of the bonds and Preferred Stock the Company will redeem and retire $600,000 principal amount of its Twenty-Five-Year Six Per Cent. Mortgage Gold Bonds, Series A due 1948 and 16,000 shares of its 7% Cumulative Preferred Stock, being the entire outstanding amount of each of said issues.

It is proposed that Cities Service Power & Light Company after the change of each of the shares of the presently outstanding common stock of the par value of $25.00 per share of the Danbury Company owned by it into five shares of common stock of said company having a par value of $5.00 per share, and after having received 24,000 shares of $5.00 par value common stock in full satisfaction and discharge of its notes and accounts receivable from said company (plus $4,040 of accrued interest) in the total amount of $408,040.00, will sell its entire common stock interest which will be 144,000 shares of $5.00 par value each in the Danbury Company.

The principal underwriters of the bonds, preferred stock and common stock will be the First Boston Corporation, New York, New York; Putnam & Company, Hartford, Connecticut; and Chas. W. Scranton & Co., New Haven, Connecticut. The price to the public, underwriting discounts or commission, and net proceeds to be realized by the companies from the issue and sale of the bonds, preferred stock and common stock are to be supplied by amendment.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–4455; Filed, October 22, 1940; 11:48 a. m.]